

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5562 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

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GAJJAR STEEL INDUSTRIES PVT LTD

Versus

JAIRAM LALARAM

Appearance:

1. Special Civil Application No. 5562 of 2000
MR KM PATEL for Petitioner No. 1
MR KR KOSHTI for Respondent No. 1
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CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 12/07/2001

ORAL JUDGEMENT

The present petition is filed by Gajjar Steel Industries Pvt. Limited, challenging the award passed by the Labour Court at Ahmedabad in Reference (LCA) No.849 of 1991 dated 7.8.1999 whereby the respondent workman is

ordered to be reinstated with 40% back wages and the cost of Rs.2,000/-.

2 The case of the present petitioner is that the respondent-workman was serving with the petitioner management since 2.10.1985 and in the year 1991 on 17.1.1991 he tendered his resignation, a copy of which is produced at page 24. The same was accepted by the company on the same day. The said acceptance letter is also produced at page 25 wherein it is stated that the resignation dated 17.1.1991 is accepted and that the dues be collected from the office during the working hours within four days. The vouchers bearing the same date i.e. 17.1.1991 for the payment of gratuity, bonus, salary for the month of January 1991 and leave encashment are also produced. It is the case of the petitioner-management that after the respondent-workman received this amount he left the services. Thereafter for some unknown reasons the respondent-workman filed a statement of claim wherein the case of the workman was that he has not resigned from the employment, he has not received any amount towards dues and that he has not signed any documents which are referred to hereinabove.

3 After the matter was heard for sometime, Mr K.R.Koshti, learned counsel for the respondent-workman, submitted that the respondent-workman is in need of livelihood and therefore he is more interested in reinstatement and for that he is even ready to let go part of the back-wages awarded by the Labour Court including the cost. Mr Koshti also submitted that after the order of this Court on 30.11.2000 the respondent-workman is paid the wages in compliance of the provisions of Section 17B of the Industrial Disputes Act but since January 2001 he is not paid the same. Mr K.M. Patel, learned advocate for the petitioner-management fairly submitted that as it is not a case of misconduct on the part of the respondent-workman the management does not have any serious objection in reinstatement. However, Mr Patel submitted that the financial resources of the petitioner-company are limited, paying of back wages will be burdensome for the company and therefore he submitted that if the amount of back wages can be waived, it will create an atmosphere for amicable settlement. He also submitted that he has no instruction for the present but the amount payable under Section 17B of the Industrial Disputes Act, if not paid, will be paid to the respondent-workman.

4 In view of the aforesaid discussion, taking into consideration the totality of the circumstances, it is

deemed fit that the award of the Labour Court is modified to the effect that 40% backwages which are awarded is reduced to 20% and the amount of costs of Rs.2,000/- is also quashed.

5 In the result, the petition is allowed to the aforesaid extent. The petitioner-management shall reinstate the workman on or before 25.7.2001. The petitioner-management shall pay the amount due and payable towards compliance of Section 17B of the Industrial Disputes Act, 20% of the back wages and the other amount payable towards compliance of Section 17B be paid within 3 months from the date receipt of this order. Rule is made absolute to the aforesaid extent. No order as to costs.

(Ravi R Tripathi, J.)

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